

REMARKS

I. Introduction

With the addition of new claims 36 to 41, claims 18 to 41 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Allowed Claim 34

Applicants note with appreciation the indication that claim 34 is allowed.

III. Rejection of Claims 18 to 31 and 35 Under 35 U.S.C. § 102(b)

Claims 18 to 31 and 35 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent Application Publication No. 2001/0001540 ("Okamuro et al."). It is respectfully submitted that Okamuro et al. do not anticipate the present claims as amended herein for at least the following reasons.

An aspect of the present application is that measurement-data request instructions RQ are recognized as early as possible, e.g., in an incoming data stream from sequential electronics to a position-measuring device. As mentioned, for example, on page 9, lines 10 to 28 of the Specification, the redirection units are provided for this purpose. The redirection units include a unit 16 and a separate data channel 14. Thus, when a data stream is received from the sequential electronics by the redirection device, the first processing step is to identify, separate and redirect measurement-data request instructions. These measurement-data request instructions are redirected by the redirection device to the signal-generating unit via the separate data channel, bypassing the internal interface unit.

In contrast to the foregoing, Okamuro et al. mention at least four processing steps that are performed with respect to an incoming data stream, e.g., on serial transmission line 31, 131, before a sample holding signal is directed to sample holding section 15, 115. Referring, for example, to Figures 1 and 10, data from serial transmission line 31, 131 is first received by a serial signal transmission circuit 20, 120. Then, a signal is transmitted from the serial signal transmission unit 20, 120 to a serial signal conversion circuit 19, 119 which outputs a signal to the CPU 25, 125 in the microcomputer 18, 118 . After processing the signal in the CPU

25, 125 -- including programming the timer 26, 126 -- a sample holding signal is sent to the sample holding section 15, 115 via an output circuit 24, 124. Based on the foregoing, it is readily apparent that, according to Okamuro et al., a request signal is processed in and transferred through four units, i.e., the serial signal transmission circuit 20, 120; the serial signal conversion circuit 19, 119; the CPU 25, 125; and the output circuit 24, 124. It is further readily apparent that each of these units requires time for processing the signal. As mentioned above, however, according to the present application, request signal RQ is identified, separated and redirected to the signal-generating unit 11 by the redirection unit directly in the incoming data stream.

While it is believed that independent claims 18, 25 and 35, as previously presented, are sufficient in this regard, in order to even more clearly distinguish the subject matter over Okamuro et al., claim 18 has been amended herein without prejudice to recite that the method includes identifying, separating and redirecting measurement-data request instructions in an incoming data stream, transmitted from sequential electronics to a position-measuring device, without further time delay, to a signal-generating unit to immediately generate measurement data, bypassing an internal interface unit, claim 25 has been amended herein without prejudice to recite that a position-measuring device includes a redirection device that is configured to identify, separate and redirect to a signal-generation unit, without further time delay, measurement-data request instructions in an incoming data stream transmitted from sequential electronics to the position-measuring device to immediate generate measurement data by bypass of an internal interface unit, and claim 35 has been amended herein without prejudice in a manner analogous to claim 25.

It appears from the Final Office Action that photodetecting circuit 12 and amplifier 14 are considered by the Examiner to constitute a signal-generating unit and that multiplexer 16 is considered by the Examiner to constitute a communication unit. Since claim 18, for example, recites transmitting data between a signal-generating unit and a communication unit via an internal interface unit, sample holding section 15 is apparently being considered by the Examiner to constitute an internal interface unit. However, the sample holding signal does not bypass the sample holding section 15. Indeed, the sample holding signal is directed from the output circuit 24 to the sample holding section 15. Thus, to the extent that sample holding section 15 is being considered by the Examiner to constitute an internal interface unit, Okamuro et al. fail to disclose, or even suggest, bypass of an

internal interface unit. To the extent that the multiplexer 16 and/or A/D 17 are considered by the Examiner to constitute an internal interface unit, the sample holding section 15 is apparently considered by the Examiner to constitute a signal-generating unit. However, the sample holding section 15 is not “configured to generating positional data,” and positional data are not “generated in accordance with [the sample holding signal.]” In this regard, Okamuro et al. describe that the sample holding section 15 merely holds signals from an amplifier 14. See, e.g., paragraph [0073]. Thus, any reading of Okamuro et al. indicates that Okamuro et al. fail to disclose, or even suggest, all of the features of the present claims.

It is, of course, “well settled that the burden of establishing a prima facie case of anticipation resides with the [United States] Patent and Trademark Office.” Ex parte Skinner, 2 U.S.P.Q.2d 1788, 1788 to 1789 (Bd. Pat. App. & Inter. 1986). To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). As more fully set forth above, it is respectfully submitted that Okamuro et al. do not disclose, or even suggest, all of the features recited in claims 18, 25 and 35. As such, it is respectfully submitted that Okamuro et al. do not anticipate claims 18, 25 and 35.

As for dependent claims 19 to 24 and 26 to 31, it is respectfully submitted that Okamuro et al. do not anticipate these dependent claims for at least the reasons more fully set forth above.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

IV. Rejection of Claims 32 and 33 Under 35 U.S.C. § 103(a)

Claims 32 and 33 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Okamuro et al. and “The Art of Electronics,” page 495 (“Horowitz et al.”). It is respectfully submitted that the combination of

Okamuro et al. and Horowitz et al. does not render unpatentable the present claims for at least the following reasons.

Claims 32 and 33 ultimately depend from claim 25 and therefore include all of the features included in claim 25. As more fully set forth above, Okamuro et al. do not disclose, or even suggest, all of the features recited in claim 25. Horowitz et al. are not relied upon for disclosing or suggesting the features of claim 25 not disclosed or suggested by Okamuro et al. Indeed, it is respectfully submitted that Horowitz et al. do not disclose, or even suggest, the features of claim 25 not disclosed or suggested by Okamuro et al. As such, it is respectfully submitted that the combination of Okamuro et al. and Horowitz et al. does not render unpatentable claims 32 and 33, which ultimately depend from claim 25.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

V. New Claims 36 to 41

New claims 36 to 41 have been added herein. It is respectfully submitted that claims 36 to 41 add no new matter and are fully supported by the present application, including the Specification.

Since claims 36 to 38 depend from claim 18, it is respectfully submitted that claims 36 to 38 are patentable over the references relied upon for at least the reasons more fully set forth above in support of the patentability of claim 18.

Since claims 39 to 41 depend from claim 25, it is respectfully submitted that claims 39 to 41 are patentable over the references relied upon for at least the reasons more fully set forth above in support of the patentability of claim 25.

VI. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Date: June 29, 2007

By: /Clifford A. Ulrich/
Clifford A. Ulrich
Reg. No. 42,194

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646